



Virginia  
Regulatory  
Town Hall

## Emergency Regulation Agency Background Document

<b>Agency Name:</b>	Virginia Department of Game and Inland Fisheries
<b>VAC Chapter Number:</b>	4 VAC 15-380-10 et seq.
<b>Regulation Title:</b>	Watercraft: Motorboat Numbering
<b>Action Title:</b>	Amendment
<b>Date:</b>	June 17, 2002

Section 9-6.14:4.1(C)(5) of the Administrative Process Act allows for the adoption of emergency regulations. Please refer to the APA, Executive Order Twenty-Four (98), and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the emergency regulation submission package.

### Emergency Preamble

*Please provide a statement that the emergency regulation is necessary and provide detail of the nature of the emergency. Section 9-6.14:4.1(C)(5) of the Administrative Process Act states that an "emergency situation" means: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date. The statement should also identify that the regulation is not otherwise exempt under the provisions of § 9-6.14:4.1(C)(4).*

*Please include a brief summary of the emergency action. There is no need to state each provision or amendment.*

The emergency regulation is necessary to limit the fiscal year 2002-2003 shortfall between boating program revenue and costs to approximately \$1.425 million, as opposed to more than \$2.4 million. The projected shortfall results from a 2002 Appropriation Act reduction of \$2.8 million of Watercraft Sales and Use Tax revenue from the Department of Game and Inland Fisheries' fiscal year 2002-2003 appropriation. Reducing the shortfall between program revenue and program costs allows the Department to sustain boating law enforcement, safety education, and related programs at a level at least sufficient to protect the boating public's basic safety and welfare on the waters of the Commonwealth.

Item 392 of the Appropriation Act, Chapter 899 of the 2002 Virginia Acts of Assembly, at pages 326-327 authorizes the Department of Game and Inland Fisheries “to issue emergency regulations to enact an increase in motorboat registration fees.”

Outside of this emergency regulation process the regulation is otherwise normally promulgated pursuant to procedures set out in §§ 29.1-701(E), and 29.1-500 *et seq.* of the Code of Virginia.

The emergency regulation increases motorboat registration fees by up to nine dollars per three-year registration, as per the 2002 Appropriation Act authorization, and repeals the existing fee and process requirements for duplicate certificates of number currently stated in regulation.

### Basis

*Please identify the state and/or federal source of legal authority to promulgate the emergency regulation. The discussion of this emergency statutory authority should: 1) describe its scope; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. Full citations of legal authority and web site addresses, if available for locating the text of the cited authority, should be provided.*

*Please provide a statement that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the emergency regulation and that it comports with applicable state and/or federal law.*

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Item 392 of the Appropriation Act, Chapter 899 of the 2002 Virginia Acts of Assembly, at pages 326-327 provided:

*The Department shall prepare an analysis comparing the revenue derived from boat registration fees to the cost of implementing the programs and activities authorized under the state’s Boating Laws. If the costs exceed the revenues, the Board of Game and Inland Fisheries, at its discretion, is authorized to increase motorboat registration fees by an amount not to exceed nine dollars per certificate. The Department of Game and Inland Fisheries shall have the authority to issue emergency regulations to enact an increase in motorboat registration fees.*

The Department prepared the required analysis and the finding was the Department’s cost of implementing the programs and activities authorized under the boating laws of the Commonwealth in fiscal year 2001 was \$7,402,000, exceeding the \$2,011,000 in revenues derived from sales of motorboat certificates of registration. The analysis further indicated that a 2002 Appropriation Act reduction of Watercraft Sales and Use Tax revenue from the Department of Game and Inland Fisheries’ fiscal year 2002-2003 appropriation would result in an estimated program revenue shortfall of more than \$2.4 million relative to boating programs’ costs to the Department. With an increase in three-year boat registration fees of a maximum of nine dollars each, however, \$986,862 of that shortfall could be recaptured, and the shortfall reduced to approximately \$1.425 million in fiscal year 2002-2003.

Section 29.1-701 of the Code of Virginia authorizes the Board of Game and Inland Fisheries to make such rules and regulations as it deems necessary and proper to effectively administer

boating laws. Subsequent to this emergency regulation, the Board of Game and Inland Fisheries intends to promulgate a permanent regulation pursuant to procedures set out in §§ 29.1-701 (E), and 29.1-500 *et seq.* of the Code of Virginia.

The Office of the Attorney General has certified that the Department of Game and Inland Fisheries, provided it has performed the appropriate analysis to establish the need for this additional revenue, has the authority to adopt this emergency regulation under authority granted by Item 392 of the Appropriation Act, Chapter 899 of the 2002 Acts of the Assembly, at pages 326-327. Such authority is effective July 1, 2002. The Office of the Attorney General has further certified that, as such, the regulation will be consistent with state and federal law.

### Substance

*Please detail any changes, other than strictly editorial changes, that would be implemented. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Please provide a cross-walk which includes citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of Virginians. The statement should also delineate any potential issues that may need to be addressed as a permanent final regulation is developed.*

Under this emergency regulation, 4 VAC 15-380-120 will be established and will increase motorboat registration fees by nine dollars per certificate (the six fees will range from \$21 to \$45). The fee for a duplicate certificate of registration and/or decal will be set at nine dollars. Therefore, 4 VAC 15-380-60 will be rescinded, repealing the existing procedural requirements and the fifty cents fee for duplicate motorboat certificates of number.

The regulatory action is essential to ensure that adequate funds are available to continue effective levels of boating law enforcement, safety, access to the state's waters, and other boating programs and services. Human health and safety are placed at risk on the Commonwealth's waters if there is insufficient boating law enforcement and safety education. The boating public's welfare is supported by continued provision of boating access sites, as are the economies of Virginia locales that rely on income from boating recreation and boating tourism.

### Alternatives

*Please describe the specific alternatives that were considered and the rationale used by the agency to select the least burdensome or intrusive method to meet the essential purpose of the action.*

The alternative is to cut back statewide boating law enforcement, boating safety education, boating access sites, and related boating programs and services fully proportional to the \$2.8 million of Watercraft Sales and Use Tax revenue diverted from the Department of Game and Inland Fisheries' fiscal year 2002-2003 appropriation.

The reduced public safety and the increased burden and hardship on the public seeking to engage in boating on Virginia waters, were deemed to significantly exceed the burden of increased motorboat registration fees. Therefore this alternative was rejected.

Since motorboat registration every three years is already mandatory in Virginia, no additional intrusion on the public results from the emergency regulation.

### Family Impact Statement

Please provide a preliminary analysis of the potential impact of the emergency action on the institution of the family and family stability including to what extent the action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

There is negligible negative impact on the institution of the family and family stability. Families owning motorboats will incur a nine-dollar higher motorboat registration fee, per motorboat, once every three years – or three dollars per year on average. Compared to other costs associated with boating, this is quite small, so the decrease in disposable income per boat-owning family is quite small. It is anticipated that the number of individuals or families who drop out of recreational boat ownership as a result of the increased registration fees will be extremely small to negligible.

Positive effects on the health and safety of families that engage in boating will result due to maintenance of effective levels of boating law enforcement, boating safety education, and related services.

Positive effects on the welfare of families that engage in boating will result due to continued access to Virginia's waters at the boat ramps that remain open to the public because of the fee increase.